

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

14 Cr. 437 (CS)

MARK PAGANI,

~~PROPOSED~~ **ORDER**

Defendant.

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NEW YORK METRO HOLDINGS CORP.,

Third-Party Petitioner.

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WHEREAS, a Consent Preliminary Order of Forfeiture As To Specific Property/Money Judgment was filed on July 15, 2016 (Doc. #26) (“Consent Preliminary Order”);

WHEREAS, the Consent Preliminary Order purported to forfeit all of the right, title, and interest of the Defendant, Mark Pagani, in, *inter alia*, property located at 864 East 149th Street, Bronx, New York 10455 (“the Property”);

WHEREAS, on September 16, 2016, Third-Party Petitioner New York Metro Holdings Corp. (“NY Metro”) timely filed a Petition asserting its superior and *bona fide* legal interest in the Property pursuant to 21 U.S.C. § 853(n)(6)(A)-(B) (“the Petition”);

WHEREAS, the Petition and the Exhibits thereto asserted that NY Metro has been the sole and exclusive owner of the Property from the time that NY Metro acquired the Property by Bargain and Sale Deed, with Covenant Against Grantor's Acts, in an arms-length transaction on or about June 9, 2003 for \$2,250,000,

WHEREAS, NY Metro's purchase of the Property was duly recorded by Deed on July 24, 2003;

WHEREAS, there were no filings with the Court from the time NY Metro's Petition was filed until November 4, 2021;

WHEREAS, on November 4, 2021, NY Metro filed a motion for an Order (1) dismissing the government's forfeiture claim against the Property pursuant to Rules 12(b)(1), 12(b)(6) and/or 41(b) of the Federal Rules of Civil Procedure and/or (2) granting NY Metro judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure on the ground that its Petition establishes that it is entitled to judgment on its Petition pursuant to 21 U.S.C. § 853(n)(6)(A)-(B) as a matter of law, and

WHEREAS, on December 10, 2021, the government filed a Letter Response to NY Metro's motion, withdrawing its forfeiture interest in the Property;

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED as follows:

- A. The Consent Preliminary Order is hereby vacated with respect to the Property, and
- B. The government shall not include the Property located at 864 East 149th Street, Bronx, New York 10455, in any proposed Final Order of Forfeiture submitted in this proceeding.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT any notice of pendency filed by the government with respect to the Property is hereby cancelled and all steps to ensure that any such notice of pendency is cancelled shall be taken as necessary in accordance with applicable law.

Dated: White Plains, New York
December 16, 2021

SO ORDERED.



CATHY SEIBEL, U.S.D.J.